

117TH CONGRESS  
2D SESSION

# S. 4447

To require all newly constructed, federally assisted, single-family houses and townhouses to meet minimum standards of visitability for persons with disabilities.

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## IN THE SENATE OF THE UNITED STATES

JUNE 22, 2022

Ms. DUCKWORTH (for herself and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To require all newly constructed, federally assisted, single-family houses and townhouses to meet minimum standards of visitability for persons with disabilities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eleanor Smith Inclu-  
5 sive Home Design Act of 2022”.

### 6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) COVERED DWELLING UNIT.—The term  
2       “covered dwelling unit” means a dwelling unit  
3       that—

4           (A) is—

5                 (i) a detached single-family house;

6                 (ii) a townhouse or multi-level dwell-  
7                 ing unit (whether detached or attached to  
8                 other units or structures); or

9                 (iii) a ground-floor unit in a building  
10                of not more than 3 dwelling units;

11           (B) is designed as, or intended for occu-  
12       pancy as, a residence;

13           (C) was designed, constructed, or commis-  
14       sioned, contracted, or otherwise arranged for  
15       construction, by any person or entity that, at  
16       any time before the design or construction, re-  
17       ceived or was guaranteed Federal financial as-  
18       sistance for any program or activity relating to  
19       the design, construction, or commissioning, con-  
20       tracting, or other arrangement for construction,  
21       of the dwelling unit; and

22           (D) is made available for first occupancy  
23       on or after the date that is 1 year after the  
24       date of enactment of this Act.

1           (2) FEDERAL FINANCIAL ASSISTANCE.—The  
2       term “Federal financial assistance” means—

3           (A) any assistance that is provided or oth-  
4       erwise made available by the Secretary of Hous-  
5       ing and Urban Development or the Secretary of  
6       Veterans Affairs, or under any program or ac-  
7       tivity of the Department of Housing and Urban  
8       Development or the Department of Veterans  
9       Affairs, through any grant, loan, contract, or  
10      any other arrangement, on or after the date  
11      that is 1 year after the date of enactment of  
12      this Act, including—

13           (i) a grant, a subsidy, or any other  
14      funds;

15           (ii) service provided by a Federal em-  
16      ployee;

17           (iii) real or personal property or any  
18      interest in or use of such property, includ-  
19      ing—

20           (I) a transfer or lease of the  
21      property for less than the fair market  
22      value or for reduced consideration;  
23      and

24           (II) proceeds from a subsequent  
25      transfer or lease of the property if the

1 Federal share of the fair market value  
2 is not returned to the Federal Govern-  
3 ment;

4 (iv) any—

5 (I) tax credit; or

6 (II) mortgage or loan guarantee  
7 or insurance; and

8 (v) community development funds in  
9 the form of an obligation guaranteed under  
10 section 108 of the Housing and Commu-  
11 nity Development Act of 1974 (42 U.S.C.  
12 5308); and

13 (B) any assistance that is provided or oth-  
14 erwise made available by the Secretary of Agri-  
15 culture under title V of the Housing Act of  
16 1949 (42 U.S.C. 1471 et seq.).

17 (3) PERSON OR ENTITY.—The term “person or  
18 entity” includes an individual, corporation (including  
19 a not-for-profit corporation), partnership, associa-  
20 tion, labor organization, legal representative, mutual  
21 corporation, joint-stock company, trust, unincor-  
22 porated association, trustee, trustee in a case under  
23 title 11, United States Code, receiver, or fiduciary.

1 **SEC. 3. VISITABILITY REQUIREMENT.**

2       It shall be unlawful for any person or entity, with  
3 respect to a covered dwelling unit designed, constructed,  
4 or commissioned, contracted, or otherwise arranged for  
5 construction, by the person or entity, to fail to ensure that  
6 the dwelling unit contains not less than 1 level that com-  
7 plies with the Standards for Type C (Visitable) Units of  
8 the American National Standards Institute (commonly  
9 known as “ANSI”) Standards for Accessible and Usable  
10 Buildings and Facilities (section 1005 of ICC ANSI  
11 A117.1–2009) or any successor standard.

12 **SEC. 4. ENFORCEMENT.**

13       (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-  
14 SISTANCE.—An applicant for Federal financial assistance  
15 shall submit an assurance to the Federal agency respon-  
16 sible for the assistance that each program or activity of  
17 the applicant will be conducted in compliance with this  
18 Act.

19       (b) APPROVAL OF ARCHITECTURAL, INTERIOR DE-  
20 SIGN, AND CONSTRUCTION PLANS.—

21               (1) SUBMISSION.—

22                       (A) IN GENERAL.—An applicant for or re-  
23 cipient of Federal financial assistance for the  
24 design, construction, or commissioning, con-  
25 tracting, or other arrangement for construction,  
26 of a covered dwelling unit shall submit for ap-

1       proval the architectural, interior design, and  
 2       construction plans for the unit to the State or  
 3       local department or agency that is responsible,  
 4       under applicable State or local law, for the re-  
 5       view and approval of construction and design  
 6       plans for compliance with generally applicable  
 7       building codes or requirements (in this sub-  
 8       section referred to as the “appropriate State or  
 9       local agency”).

10       (B) NOTICE INCLUDED.—In submitting  
 11       plans under subparagraph (A), a person or enti-  
 12       ty shall include notice that the person or entity  
 13       has applied for or received Federal financial as-  
 14       sistance with respect to the covered dwelling  
 15       unit.

16       (2) DETERMINATION OF COMPLIANCE.—

17       (A) CONDITION OF FEDERAL HOUSING AS-  
 18       SISTANCE.—The Secretary of Housing and  
 19       Urban Development, the Secretary of Agri-  
 20       culture, and the Secretary of Veterans Affairs  
 21       may not provide any Federal financial assist-  
 22       ance under any program administered by the  
 23       Secretary involved to a State or unit of general  
 24       local government (or any agency thereof) unless  
 25       the appropriate State or local agency thereof is,

1 in the determination of the Secretary involved,  
 2 taking the enforcement actions under subpara-  
 3 graph (B).

4 (B) ENFORCEMENT ACTIONS.—The en-  
 5 forcement actions under this subparagraph  
 6 are—

7 (i) reviewing any plans for a covered  
 8 dwelling unit submitted under paragraph  
 9 (1) and approving or disapproving the  
 10 plans based on compliance of the dwelling  
 11 unit with the requirements of this Act; and

12 (ii) consistent with applicable State or  
 13 local laws and procedures, withholding  
 14 final approval of construction or occupancy  
 15 of a covered dwelling unit unless and until  
 16 the appropriate State or local agency de-  
 17 termines compliance as described in clause  
 18 (i).

19 (c) CIVIL ACTION FOR PRIVATE PERSONS.—

20 (1) ACTION.—Not later than 2 years after the  
 21 occurrence or termination, whichever is later, of an  
 22 act or omission with respect to a covered dwelling  
 23 unit in violation of this Act, a person aggrieved by  
 24 the act or omission may bring a civil action in an  
 25 appropriate district court of the United States or

1 State court against any person or entity responsible  
2 for any part of the design or construction of the cov-  
3 ered dwelling unit, subject to paragraph (2).

4 (2) LIABILITY OF STATE OR LOCAL AGENCY.—

5 In a civil action brought under paragraph (1) for a  
6 violation involving architectural or construction  
7 plans for a covered dwelling unit that were approved  
8 by the appropriate State or local agency—

9 (A) if the approved plans violate this Act  
10 and any construction on the covered dwelling  
11 unit that violates this Act was performed in ac-  
12 cordance with the approved plans, the State or  
13 local agency shall be liable for that construc-  
14 tion; and

15 (B) if the approved plans comply with this  
16 Act and any construction on the covered dwell-  
17 ing unit violates this Act, the person or entity  
18 responsible for the construction shall be liable  
19 for that construction.

20 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

21 (1) CIVIL ACTION.—If the Attorney General has  
22 reasonable cause to believe that a person or group  
23 of persons has violated this Act, the Attorney Gen-  
24 eral may bring a civil action in an appropriate dis-  
25 trict court of the United States.

1           (2) INTERVENTION IN PRIVATE ACTION.—The  
 2       Attorney General may, upon timely application, in-  
 3       tervene in any civil action brought under subsection  
 4       (c) by a private person if the Attorney General cer-  
 5       tifies that the case is of general public importance.

6       (e) RELIEF.—In any civil action brought under this  
 7       section, if the court finds that a violation of this Act has  
 8       occurred or is about to occur, the court—

9           (1) may award to the plaintiff actual and puni-  
 10      tive damages; and

11          (2) subject to subsection (g), may grant as re-  
 12      lief, as the court finds appropriate, any permanent  
 13      or temporary injunction, temporary restraining  
 14      order, or other order (including an order enjoining  
 15      the defendant from violating the Act or ordering  
 16      such affirmative action as may be appropriate).

17      (f) VIOLATIONS.—For purposes of this section, a vio-  
 18      lation involving a covered dwelling unit that is not de-  
 19      signed or constructed in accordance with this Act shall not  
 20      be considered to terminate until the violation is corrected.

21      (g) ATTORNEY'S FEES.—In any civil action brought  
 22      under this section, the court, in its discretion, may allow  
 23      the prevailing party, other than the United States, a rea-  
 24      sonable attorney's fee and costs.

1 (h) EFFECT ON CERTAIN SALES, ENCUMBRANCES,  
2 AND RENTALS.—Relief granted under this section shall  
3 not affect any contract, sale, encumbrance, or lease con-  
4 summated before the granting of the relief and involving  
5 a bona fide purchaser, encumbrancer, or tenant, without  
6 actual notice of a civil action under this section.

7 **SEC. 5. EFFECT ON STATE LAWS.**

8 Nothing in this Act shall be constructed to invalidate  
9 or limit any law of a State or political subdivision of a  
10 State, or of any other jurisdiction in which this Act shall  
11 be effective, that grants, guarantees, or provides the same  
12 rights, protections, and requirements as are provided by  
13 this Act, but any law of a State, a political subdivision  
14 thereof, or other such jurisdiction that purports to require  
15 or permit any action that would violate this Act shall to  
16 that extent be invalid.

17 **SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**  
18 **ACTS.**

19 Nothing in this Act shall limit any right, procedure,  
20 or remedy available under the Constitution of the United  
21 States or any other Act of Congress.

22 **SEC. 7. SEVERABILITY OF PROVISIONS.**

23 If any provision of this Act or the application thereof  
24 to any person or circumstance is held invalid, the remain-  
25 ing provisions of this Act and the application of those pro-

- 1 visions to other persons or circumstances shall not be af-
- 2 fected thereby.

